

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SWITCH COMMUNICATIONS
GROUP LLC, et al.,

Plaintiffs,

v.

DAVID MICHAEL BALLARD, et al.,

Defendants.

2:11-CV-285 JCM (GWF)

ORDER

Presently before the court is defendant David Michael Ballard's motion to compel settlement conference. (Doc. #83). Plaintiffs Switch Communications Group LLC and Switch Business Solutions LLC (collectively, "Switch") have filed an opposition (doc. #85) to which Ballard has replied (doc. #86).

Pursuant to Local Rule 16-5, this court has the discretion to set a case for settlement conference at any time. Switch is amenable to a future non-binding settlement conference, but feels that holding such a conference at this stage in the proceedings is premature. Switch argues that its experts should have an opportunity to review Ballard's data center plans and Switch should be afforded an opportunity to file a motion seeking leave to amend its complaint prior to any settlement conference taking place.

During the hearing on the motion to dismiss, Ballard requested a settlement conference and this court informed him to make a motion and it will be considered. The crux of Ballard's position

1 is that because he has not yet designed the data center at issue, if Switch can inform him of the trade
2 secrets they believe are being misappropriated, it may be possible for him to design around those
3 issues.

4 This court agrees with Ballard's assessments and does not see why Switch's objections would
5 render a settlement conference at this stage futile. If the parties can agree as to what trade secrets
6 are at issue, and how any misappropriation can be averted, then the need for an amended complaint
7 is likely eliminated and any additional discovery not required. The parties are focused on harms that
8 may occur in the future, not harms that have already occurred. A settlement conference, conducted
9 in good faith, will enable the parties to find common ground ex ante and possibly eliminate the risk
10 of future harm that Switch fears.

11 Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Ballard's motion to
13 compel settlement conference (doc. #83) be, and the same hereby is, GRANTED.

14 IT IS THEREFORE ORDERED that the clerk's office assign the matter to a magistrate judge
15 to conduct a settlement conference.

16 DATED December 6, 2011.

17
18 
19 UNITED STATES DISTRICT JUDGE